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Attorneys for Respondent

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ARTURO CHAIREZ,

Petitioner,

v.

M. ADAMS, Warden,

Respondent.

C 07-5767 MMC (PR)

**DECLARATION OF DAVID H.
ROSE**

DAVID H. ROSE declares as follows under penalty of perjury:

I am the Deputy Attorney General of the State of California assigned to prepare the response to the Petition for Writ of Habeas Corpus in this case.

On July 9, 2008, my secretary attempted to, and believed she did in fact, file our Motion to Dismiss the petition on grounds of untimeliness. At the same time, my secretary filed a Notice of Lodging and Index of Exhibits.

While filing papers in the case record, I noticed yesterday that the email we received from this Court listed only the Notice of Lodging and Index of Exhibits as having been filed. I inspected the PACER record of the case, and discovered that, in fact, for unknown reasons, our Declaration of David H. Rose - Arturo Chairez v. M. Adams, Warden - C 07-5767 MMC (PR)

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Arturo Chairez v. M. Adams, Warden**

No.: **C 07-5767 MMC (PR)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On **July 16, 2008**, I served the attached **DECLARATION OF DAVID H. ROSE** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

Arturo Chairez
V-55603
Corcoran State Prison
P. O. Box 3471
Corcoran, CA 93212

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on **July 16, 2008**, at San Francisco, California.

Gloria J. Milina

Declarant

/s/ Gloria Milina

Signature

1 response to the petition had not successfully been transmitted to this Court and filed.

2 I am now offering this declaration, along with our electronic filing of the Motion to
3 Dismiss in this case. Filing of this document at this time will not prejudice petitioner, in that
4 petitioner was routinely served with hard copies of the Motion on July 10.

5 My secretary has made literally dozens of electronic filings with this Court, and we
6 have never previously confronted a problem such as is present in this case.

7 Accordingly, respondent respectfully requests this Court file the accompanying
8 Motion to Dismiss Petition for Writ of Habeas Corpus.

9 Dated: July 16, 2008

11 /s/ David H. Rose

12 _____
DAVID H. ROSE
Deputy Attorney General

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